

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

SIERRA CLUB,)	
)	
Plaintiff,)	
)	
v.)	Civ. Action No. 3:10-cv-000303-bbc
)	
DAIRYLAND POWER COOPERATIVE,)	
)	
Defendant.)	
)	

**DEFENDANT DAIRYLAND’S UNOPPOSED MOTION TO STAY DISCOVERY AND
SCHEDULING DEADLINES PENDING ENTRY OF CONSENT DECREE**

Pursuant to Federal Rules of Civil Procedure 16(b) and 26(b), Defendant Dairyland Power Cooperative (“Dairyland”) moves this Court to continue to stay all deadlines in this case pending the lodging and entry of a Consent Decree resolving the case. Plaintiff has indicated it does not oppose this motion.

Since the Court granted Dairyland’s Unopposed Motion to Stay on October 14, 2011, the parties and the United States (which is not a party to this action) have worked diligently to finalize the terms of the Consent Decree. The parties have shared multiple drafts of the Consent Decree and negotiated diligently to memorialize the term sheet into an agreement. The Parties and the United States also continue to negotiate the details of the Environmental Mitigation Plan associated with the Consent Decree. At this point negotiations are focused on a handful of drafting issues around several key open issues. The parties need more time to finalize the Consent Decree and the associated Environmental Mitigation Plan.

The Parties and the United States have reached out to the Wisconsin Department of Natural Resources (“WDNR”) in the hope of including Wisconsin as a party to the Consent Decree. Dairyland would like more time to continue this effort.

Even though the Consent Decree has not yet been finalized or lodged with this Court (and, therefore, is not binding on the parties), Dairyland is preparing to voluntarily comply, to the extent practicable, with the Consent Decree terms to adhere to key compliance dates and meet deadlines for control equipment installations. Dairyland is committed to finalizing the Consent Decree and lodging it with the Court as soon as practicable.

The parties and the United States hope to finalize a Consent Decree and file it with this Court for its approval as soon as practicable, pursuant to the process set forth in 42 U.S.C. § 7413(g) and § 7604(c)(3). Due to the involvement of the United States and WDNR in the settlement discussions, and the longer approval process by the United States Environmental Protection Agency prior to lodging the Consent Decree, the parties are unable to lodge the Consent Decree prior to the end of the current stay, which is January 4, 2012. Therefore, Dairyland respectfully requests that the case continue to be stayed so that the parties can draft a Consent Decree for entry and undergo the approval and notice processes provided by statute.

Accordingly, Dairyland requests that this Court continue to stay this case pending the lodging and entry of a Consent Decree, which Dairyland hopes will occur within 90 days. Dairyland believes that the stay will best serve the interests of this Court and the parties going forward.

Respectfully submitted this 30th day of December 2011.

/s/Nash E. Long, III

Nash E. Long, III*

T. Thomas Cottingham, III*

WINSTON & STRAWN LLP

214 N. Tryon Street ~ 22nd Floor

Charlotte, NC 28202

Email: nlong@winston.com

tcottingham@winston.com

(704) 350-7700

(704) 350-7800 - Fax

John M. Holloway, III*

Elizabeth C. Williamson*

WINSTON & STRAWN LLP

1700 K Street, N.W.

Washington, D.C. 20006

Email: jholloway@winston.com

ewilliamson@winston.com

(202) 282-5000

(202) 282-5100 - Fax

Jeffrey L. Landsman

Vincent M. Mele

WHEELER, VAN SICKLE & ANDERSON, S.C.

25 West Main Street, Suite 801

Madison, WI 53703

Email: JLandsman@wheelerlaw.com

VMele@wheelerlaw.com

(608) 255-7277

(608) 255-6006 - Fax

Attorneys for Dairyland Power Cooperative

**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing via ECF to all counsel of record as follows:

David C. Bender
Christa O. Westerberg
Pamela R. McGillivray
McGILLIVRAY WESTERBERG & BENDER, LLC
305 S. Paterson Street
Madison, WI 53703
Email: bender@mwbattorneys.com
westerberg@mwbattorneys.com
mcgillivray@mwbattorneys.com

Elizabeth R. Lawton
Miriam Ostrov
MIDWEST ENVIRONMENTAL ADVOCATES, INC.
551 Main Street, Suite 200
Madison, WI 53703
Email: blawton@midwestadvocates.com
mostrov@midwestadvocates.org

Robert Ukeiley
LAW OFFICE OF ROBERT UKEILEY
435R Chestnut Street, Ste. 1
Berea, KY 40403
Email: rukeiley@icg.org

This 30th day of December 2011.

/s/Nash E. Long, III
Nash E. Long, III